

REMARKS

Corrected drawings are submitted. Those elements that were previously missing from the drawings but were identified in the specification have now been correctly marked in the drawings. Paragraph [0024] has been amended to remove reference to "FIG. 4a" and include reference to the figures generally. The last sentence of paragraph [0032] has been amended to remove the reference to the claims, as requested. It is noted that the paragraph numbers referred to above relate to the paragraph numbers which have been assigned to the application in its official USPTO publication, Publication No. **20030155323 A1**, published August 21, 2003.

The Office Action has rejected claims 2-4 and 8-10 and 14-17, under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant notes that those claims have been amended to clarify the language of the claims. The claims are now believed to be definite.

The Office action has rejected claims 1-5 and 7-12 under 35 U.S.C. §102(e) as being anticipated by DeMeo (U.S. Patent No. 5,972,292). DeMeo discloses a bottle having a rectilinear neck which directly abuts a protrusion depending from the cap. The neck and cap form a seal if contact is made. In sharp contrast, as presently amended the bottle of the present invention comprises a mouth and neck, the neck forming a flexible lip proximate the mouth, said lip extending outwardly from the top of said neck such that diameter of the lip at its upper circumference is greater than the diameter of the upper circumference of the neck, the lip having an interior sealing surface. In this manner, and as shown in the drawings, a stopper effect is created by the interior dependent portions of the cap and the lip of the bottle. Such an arrangement is novel and gives a certain contact between the lip and cap that DeMeo does not teach.

Claims 6, has been rejected, under 35 U.S.C. § 103(a) as being unpatentable over DeMeo. Claim 6 is dependent on Claim 1 and as noted above DeMeo does not teach the novel outwardly extending lip. Further, as noted by the Office Action, DeMeo does not teach the range of texture disclosed in the present invention. As such, the present invention, specifically claim 6, is not obvious in view of DeMeo and withdraw of the rejection is respectfully requested.

Claims 13-20 have been rejected under the judicially created doctrine of obviousness-type double patenting over claims 14 and 17-19 of U.S. Patent No. 6,257,432 in view of DeMeo.

Claims 13-17, 19 and 20 have been rejected under the judicially created doctrine of obviousness-type double patenting over claims 9, 13 and 14 of U.S. Patent No. 6,257,432 in view of DeMeo. Applicant submits, herewith, a terminal disclaimer, in compliance with 37 C.F.R. § 1.321(c), as suggested by the Office Action. It is respectfully requested that the rejections of claims 13-20 be withdrawn.

Applicant encloses herewith a copy of the Assignment of the present application, which assignment is being filed simultaneously for recordation in the files of the Recording Branch. The enclosed assignment assigns a 100 percent interest in the application to the owner of U.S. Patent No. 6,257,432.

Applicant encloses herewith a petition for a one-month extension of time along with a check to cover the fee for such an extension. Applicant also encloses the fee to cover the Terminal Disclaimer filed herewith, and a fee to cover the recordation of the assignment enclosed herewith. If a further fee is due, authorization is hereby given to charge any fees in connection with the subject patent application to Deposit Account No. 23-0920. Further, if the attached petition is deficient in any way Applicant requests that this paper be considered as a substitute petition and that any required fee be charged to the above-noted Deposit Account.

With the above amendments and remarks, Applicant believes this application to be ready
for allowance and earnestly solicits an early Notice of Allowance

Respectfully submitted,

WELSH & KATZ, LTD.

A handwritten signature in black ink, appearing to read 'Daniel M. Gurfinkel', written over the printed name.

Daniel M. Gurfinkel

Registration No. 34,177

December 1, 2003
WELSH & KATZ, LTD.
120 South Riverside Plaza - 22nd Floor
Chicago, IL 60606
Phone: (312) 655-1500
Fax: (312) 655-1501